UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,029	09/26/2001	Marcey L. Kelley	IL-10707	9891

7590 05/05/2005	EXAMINER
Eddie E. Scott	LEROUX, ETIENNE PIERRE

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ART UNIT	PAPER NUMBER
2161	

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

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	Application No.	Applicant(s)
Office Action Summary	09/964,029	KELLEY ET AL.
	Examiner	Art Unit	
	Etienne P LeRoux	2161	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _10 February 2005_ .

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _6_ is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _6_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on _26 September 2001_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)	4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) ☐ Notice of Informal Patent Application (PTO-152)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) ☐ Other: .

Claims Status

Claim 6 is pending. Claims 1-5 and 7-17 have been cancelled. Claim 6 is rejected as

detailed below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Conference

Publication: Secure Software Distribution System by T. Bartoletti et al (hereafter Bartoletti), as

provided by applicant.

Claim 6:

Bartoletti discloses:

- determining which of said software patches should be applied to said client's systems

  [page 4, par 2, line 2]

- collecting said software patches from said vendors by downloading them from said

  vendor's ftp sites [page 5, par 1]

- determining which of vendor's upgrades and patches have been applied to client's

  systems [page 4, par 2, line 2]

- determining which said software upgrades and patches should be or should have been applied to said clients systems [page 4, par 2, line 2]

- collection of said patches and upgrades from said vendor's and downloading said patches and upgrades to client systems [page 4, par 1, lines 4,5]

- determining how much memory is needed to install said patch and upgrades [page 4, par 2, line 5]

- determining how dependencies on other layered products affect the installation of said patches and upgrades [page 4, par 2, line 6]

- determining how dependencies on other patches, or software upgrades affect the installation of a patch [page 4, par 2, line 6]

- determining how dependencies on other software upgrades affect the installation of a patch [page 4, par 2, lines 4-6]

- determining which files will be affected by the installation of a patch [page 4, par 2, lines 4-6],

- determining which directories will be affected by the installation of a patch [page 4, par 2, line 7]

- backing-out said software patches that have been applied to said client's systems [page 4, par 1, line 3, par 3]

- checking the permissions and ownership of the files referenced in the patch and ensuring that the system is authentic [page 5, par 1, line 12]

- determining which software patches should be installed by determining the needed software patches and the not needed software patches [page 6, par 2, line 16]

- distributing said needed software patches to said client's systems [page 6, par 2 line 18-20],

- installing said needed software patches [page 6, par 2, lines 18-20]

Response to Arguments

Applicant's arguments filed 2/10/2005 have been fully considered but they are not persuasive.

<u>Applicant Argues</u>:

Applicant states on page 15 "interpreting which of the files will be affected by installation of the vendor's software patches" is not found in the Bartoletti et al reference.

<u>Examiner Responds</u>:

Examiner is not persuaded. Examiner maintains the following excerpt, i.e., page 4, paragraph 2, from Bartoletti reads on above claim limitation:

Each patch or upgrade must be interpreted to determine the operating system type, version and architecture the patch applies to; how much memory and disk space is needed to install the patch; dependencies on other layered products, patches, or upgrades; and which files and directories are affected by the installation of a patch.

<u>Applicant Argues</u>:

Applicant states on page 15 "interpreting which directories will be affected by the installation of the vendor's software patches" is not found in the Bartoletti et al reference.

<u>Examiner Responds</u>:

Examiner is not persuaded. Examiner maintains the following excerpt, i.e., page 4, paragraph 2, from Bartoletti reads on above claim limitation:

Each patch or upgrade must be interpreted to determine the operating system type, version and architecture the patch applies to; how much memory and disk space is needed to install the patch; dependencies on other layered products, patches, or upgrades; and which files and directories are affected by the installation of a patch.

Applicant Argues:

Applicant states on page 15 "interpreting the operating system type, version and

architecture the vendor's software patches apply to" is not found in the Bartoletti reference.

Examiner Responds:

Examiner is not persuaded. Examiner maintains the following excerpt, i.e., page 4,

paragraph 2, from Bartoletti reads on above claim limitation:

Each patch or upgrade must be interpreted to determine the operating system type, version and architecture the patch applies to; how much memory and disk space is needed to install the patch; dependencies on other layered products, patches, or upgrades; and which files and directories are affected by the installation of a patch.

Applicant Argues:

Applicant states on page 15 "interpreting dependencies on the other layered products" is

not found in the Bartoletti reference."

Examiner Responds:

Examiner is not persuaded. Examiner maintains the following excerpt, i.e., page 4,

paragraph 2, from Bartoletti reads on above claim limitation:

Each patch or upgrade must be interpreted to determine the operating system type, version and architecture the patch applies to; how much memory and disk space is needed to install the patch; dependencies on other layered products, patches, or upgrades; and which files and directories are affected by the installation of a patch.

Applicant Argues:

Applicant states on page 15 "determining how dependencies on the other layered products affect the installation of the vendor's patches and upgrades" is not found in the Bartoletti reference.

Examiner Responds:

Examiner is not persuaded. Examiner maintains the following excerpt, i.e., page 4, paragraph 2, from Bartoletti reads on above claim limitation:

Each patch or upgrade must be interpreted to determine the operating system type, version and architecture the patch applies to; how much memory and disk space is needed to install the patch; dependencies on other layered products, patches, or upgrades; and which files and directories are affected by the installation of a patch.

Applicant Argues:

Applicant states on page 15 "determining how dependencies on the other patches, or the other software upgrades affect the installation of a software patch" is not found in the Bartoletti reference.

Examiner Responds:

Examiner is not persuaded. Examiner maintains the following excerpt, i.e., page 4, paragraph 2, from Bartoletti reads on above claim limitation:

Each patch or upgrade must be interpreted to determine the operating system type, version and architecture the patch applies to; how much memory and disk space is needed to install the patch; dependencies on other layered products, patches, or upgrades; and which files and directories are affected by the installation of a patch.

Applicant Argues:

Applicant states on page 15, "determining how dependencies on other software upgrades affect the installation of the software patch" is not found in the Bartoletti reference.

Examiner Responds:

Examiner is not persuaded. Examiner maintains the following excerpt, i.e., page 4,

paragraph 2, from Bartoletti reads on above claim limitation:

Each patch or upgrade must be interpreted to determine the operating system type, version and
architecture the patch applies to; how much memory and disk space is needed to install the patch;
dependencies on other layered products, patches, or upgrades; and which files and directories are
affected by the installation of a patch.

Applicant Argues:

Applicant states on page 15 "determining which of the files will be affected by the

installation of the vendor's software patch" is not found in the Bartoletti reference.

Examiner Responds:

Examiner is not persuaded. Examiner maintains the following excerpt, i.e., page 4,

paragraph 2, from Bartoletti reads on above claim limitation:

Each patch or upgrade must be interpreted to determine the operating system type, version and
architecture the patch applies to; how much memory and disk space is needed to install the patch;
dependencies on other layered products, patches, or upgrades; and which files and directories are
affected by the installation of a patch.

Applicant Argues:

Applicant states on page 15 "determining which of the directories will be affected by the

installation of the vendor's software patch" is not found in the Bartoletti reference.

Examiner Responds:

Examiner is not persuaded. Examiner maintains the following excerpt, i.e., page 4,

paragraph 2, from Bartoletti reads on above claim limitation:

Each patch or upgrade must be interpreted to determine the operating system type, version and
architecture the patch applies to; how much memory and disk space is needed to install the patch;
dependencies on other layered products, patches, or upgrades; and which files and directories are
affected by the installation of a patch.

Applicant Argues:

Applicant argues on page 15 "checking the permissions and the ownership of the files

referenced in the vendor's software patch and ensuring that the system software is authentic."

Examiner Responds:

Examiner is not persuaded. Examiner maintains the following excerpt, i.e., page 6,

paragraph 2, from Bartoletti reads on above claim limitation:

To evaluate a system, the SSDS Server asks the SSDS client running on the target system which
operating system, version, and architecture is running on the target. It then collects all of the
patches from the patch spec database pertaining to this system's operating system, version, and
architecture. From these patch specifications a list of directories and files manipulated by the
patch specification is formed. The owner, group, permissions, and checksums (for files only) for
each file or directory on the list is checked against the owner, group, permissions, and checksums
of the respective directory or file on the target system.

Applicant Argues:

Applicant argues "determining which of the vendor's software patches should be

installed by determining the needed vendor's software patches and the not needed vendor's

software patches."

Examiner Responds:

Examiner is not persuaded. Examiner maintains the following excerpt, i.e., page 6,

paragraph 2, reads on above limitation:

From this information, the SSDS Server can determine which patches need to be installed on the
target system in order to bring it up-to-date. The system administrator can choose to have SSDS
install patches immediately after the evaluation or at some later data and time. The system
administrator can also choose not to have SSDS install the patches and instead report on the
patches needed. This allows for the system administrators to dictate which actions SSDS is to
perform on a system.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne LeRoux whose telephone number is (571) 272-4022. The examiner can normally be reached on Monday – Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (571) 272-4023.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Patent related correspondence can be forwarded via the following FAX number (703) 872-9306

Etienne LeRoux

4/25/2005

MOHAMMAD ALI
PRIMARY EXAMINER